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From: Stephanie Fay Legal Assistant to Betty Formby	No. of Pages Including Cover Sheet: 22
Message: Enclosed herewith: <ul style="list-style-type: none">• Transmittal of Appeal Brief; and• Appeal Brief.	
Re: Application No. 10/752,736 Attorney Docket No: AUS920030979US1	
Date: Tuesday, May 30, 2006	
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of: Janakiraman et al.

Group Art Unit: 2645

Serial No.: 10/752,736

Examiner: Gauthier, Gerald

Filed: January 7, 2004

Attorney Docket No.: AUS920030979US1

For: Automated Method and System
for Interacting with Telephone Call
Trees

35525

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By: Stephanie Fay
Stephanie Fay

TRANSMITTAL OF APPEAL BRIEFCommissioner for Patents
P.O. Box 1450
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- Appeal Brief (37 C.F.R. 41.37)

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Respectfully submitted,

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**RECEIVED
CENTRAL FAX CENTER****Docket No. AUS920030979US1****MAY 30 2006****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Janakiraman et al.

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Group Art Unit: 2645

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Alexandria, VA 22313-1450, facsimile number (571) 273-8300
on May 30, 2006.

By:


Stephanie Fay**APPEAL BRIEF (37 C.F.R. 41.37)**

This brief is in furtherance of the Notice of Appeal, filed in this case on April 26, 2006.

A fee of \$500.00 is required for filing an Appeal Brief. Please charge this fee to IBM Corporation Deposit Account No. 09-0447. No additional fees are believed to be necessary. If, however, any additional fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

(Appeal Brief Page 1 of 20)
Janakiraman et al. - 10/752,736

REAL PARTY IN INTEREST

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

RELATED APPEALS AND INTERFERENCES

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

STATUS OF CLAIMS

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-21

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims canceled: 7
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-6 and 8-21
4. Claims allowed: None
5. Claims rejected: 1-21
6. Claims objected to: None

C. CLAIMS ON APPEAL

The claims on appeal are: 1-6 and 8-21

STATUS OF AMENDMENTS

No amendments have been submitted since the final office action was mailed.

SUMMARY OF CLAIMED SUBJECT MATTER**A. CLAIM 1 - INDEPENDENT**

Claim 1 is directed to a method for interacting with a telephone call tree (Figure 6, 600, page 19, line 9 through page 20, line 29). The method contains the following steps:

- accessing a telephone call tree (page 3, lines 5-7, also implied by 602, page 19, lines 9-22);
- downloading a personal copy of the call tree (page 3, lines 5-7, also implied by 602, page 19, lines 9-22);
- identifying the nodes of interest to the user in the personal copy (604, page 19, line 22 through page 20, line 3);
- deleting nodes that are not of interest from the personal copy (606, page 20, lines 5-8);
- providing a mapping from the nodes of interest to corresponding nodes of the original call tree (610, page 20, lines 17-28);
- storing the personal copy of the call tree on a calling device (not specifically shown, page 3, lines 10-11);
- with the results that the user manipulates the personal copy of the call tree (e.g., a much smaller version on their cell phone) when accessing the original call tree (page 3, line 10-19).

B. CLAIM 5 - DEPENDENT

Claim 5 is directed to the steps of claim 1 being performed with a wireless telephone (Figure 2, page 11, line 6 through page 12, line 7).

C. CLAIM 11 - INDEPENDENT

Claim 11 is directed to a system for interacting with a telephone call tree (Figures 1-3, page 5, line 2 through page 13, line 4). The system contains an automated telephone answering system (Figure 1, page 5, line 2 through page 11, line 5) coupled to a communication unit (Figures 2 and 3, page 11, line 6 through page 13, line 4), where the communication unit performs the method of claim 1.

D. CLAIM 17 - INDEPENDENT

Claim 17 is directed to a computer program product for interacting with a telephone call tree (not specifically shown, page 21, lines 9-27). The computer program product contains instructions for performing the method of claim 1.

E. CLAIM 21 - DEPENDENT

Claim 21 is directed to an additional step for the method of claim 1 in which, upon accessing the telephone call tree after the initial interaction, the personal copy of the phone tree is automatically retrieved and displayed (Figure 5, 504, 508, page 17, line 25 through page 18, line 5).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. GROUND OF REJECTION 1 (Claims 1-4, 6, 8-13, 15-19, and 21)

Whether claims 1-4, 6, 8-13, 15-19, and 21 are obvious over Wolf, Script-Based Interactive Voice Mail and Voice Response System, U.S. Patent No. 5,737,393, April 7, 1998 (hereinafter "Wolf") in view of Peon et al., Telephone with Dynamically Programmable Push Buttons for Access to Advanced Applications, U.S. Patent No. 6,978,129, December 20, 2005 (hereinafter "Peon") under 35 U.S.C. § 103. Appellants note that claim 21 was not listed in the formal statement of the rejection, but was discussed in conjunction with the other claims cited in this rejection.

B. GROUND OF REJECTION 2 (Claims 5, 14 and 20)

Whether claims 5, 14 and 20 are obvious over Wolf in view of Peon et al. and further in view of Espejo et al., Pre-Paid Wireless Interactive Voice Response System with Variable Announcements, U.S. Patent No. 6,748,066, June 8, 2004 (hereinafter "Espejo") under 35 U.S.C. § 103.

ARGUMENT

A. GROUND OF REJECTION 1 (Claims 1-4, 6, 8-13, 15-19, and 21)

A.1. Claims 1-4, 6, 8-13, and 15-19

Claim 1 is representative of this group of claims. Regarding this claim, the rejection states:

Regarding claim(s) 1 and 17, Wolf discloses a method for integrating with a telephone call tree (FIG. 2 and column 1, lines 9-11), comprising the steps of:
accessing a telephone call tree associated with an automated telephone answering service (FIG. 2 and column 1, lines 9-11);

downloading a copy of said telephone call tree to form a downloaded call tree (FIG. 2 and column 3, lines 50-67);

identifying a plurality of nodes of said downloaded call tree said plurality of nodes of interest to a user of said telephone call tree (FIG. 2 and column 3, lines 57-67);

deleting, from said downloaded call tree, nodes that are not in said plurality of nodes to produce an individualized call trees (FIG. 2 and column 4, lines 1-8);

associating an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree (FIG. 2 and column 4, lines 9-27).

Wolf discloses the call tree being modified by the user but fails to disclose storing said individualized call tree at a location accessible to a calling device.

However, Peon teaches storing said individualized call tree at a location accessible to a calling device (column 7, lines 52-57); and

wherein a user of said calling device interacts with said telephone call tree through said individualized call tree (column 8, lines 5-13).

Office Action mailed January 26, 2006, item 4, page 3

If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985). A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The combination of **Wolf** with **Peon** does not make the invention recited in claim 1 obvious because neither of these references discloses nor suggests all of the features of this claim. Specifically, these references do not meet the *associating* step, nor do they meet the feature of the *wherein* clause.

The reference **Wolf** is directed to creating and editing a phone tree that will direct public access to persons or services within an entity, such as a business or organization. We have all been exposed to the use of such a phone tree whenever we call a business having an automated answering system. Although a necessary part of modern life, phone trees are often frustrating and difficult to navigate. In contrast, the inventive method recited in claim 1 creates a personalized phone tree that is optimized for the individual user and that can access persons or services only by working through an existing phone tree, such as a phone tree provided by **Wolf**. The method recited in claim 1 provides the user a quick, personalized way to navigate an existing phone tree. To put the difference in other words, **Wolf** maintains a phone tree that provides direct, generalized access, while the invention recited in claim 1 maintains a phone tree that provides indirect, personalized access. Since both **Wolf** and the method of claim 1 create a phone tree, it is not surprising that these methods share similar steps. However, a major difference between **Wolf** and the invention recited in claim 1 is reflected in the *associating* step, which provides a mapping from the individualized, indirect phone tree to the pre-existing, direct phone tree. This mapping provides the connection between the user's personalized phone tree and the original phone tree and provides the capability to engage one from the other.

The associating step specifically recites, "*associating an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree*". The "*plurality of nodes*" was defined in earlier steps as part of the downloaded, personalized tree and a node of the personalized tree is mapped to a corresponding node of the original tree from which the personalized version was created. Against the associating step, the rejection cites the following from **Wolf**:

To create a new menu, which will be represented by an icon similar to the icons 204 in the menu section 202a, the user accesses a "Menu Properties" dialog box, as shown in FIG. 3, through a series of appropriate menu picks, as will be recognized by those skilled in the art. From the Menu Properties dialog box, the user may select a Menu tab 300 to access a Menu page, which is shown in FIG. 3, to enter a name of the new menu, for example, "Basic

Machine," a password to be associated with the menu which must be entered before a caller can access the menu, and an icon for representing the menu in the menu section 202a of the main screen 200 (FIG. 2). It should be noted that if a password is not entered on the Menu page, no password will be required and the menu will be freely accessible by callers. Similarly, although not shown, selection of a "Greeting" tab 302 results in the display of a Greeting page that enables the user to record a greeting for the menu. A typical greeting might be, for example, "Welcome to the XYZ company customer service facility."

Wolf, column 4, lines 9-27

This excerpt describes the manner in which a new menu can be created for a given phone system. This step does not associate a node in a downloaded, personalized phone tree with another phone tree. Therefore, **Wolf** does not meet this step. Further, **Peon** is neither cited to show the associating step nor does this reference show this step. This feature of claim 1 is not met by either of the references relied upon.

Additionally, the final clause of claim 1 recites "*wherein a user of said calling device interacts with said telephone call tree through said individualized call tree*". This capability is a direct result of the associating step. The rejection cites the following excerpt against this claimed feature:

Thus, a "wireless unit" is generalized to include a cellular telephone, a mobile telephone, a mobile station, a portable telephone, and other devices that receive communications through radio signals rather than through wire or fiber optics. The present invention may also be used in connection with any additional wireless system well known to those skilled in the art.

As illustrated in FIG. 1, the PSTN 12 is connected to the wireless network 14 through an access tandem 16. The connection of the PSTN 12 to the wireless network 14 through the access tandem 16 (or similar network element) allows for the interconnection of these two communication systems. Such interconnection is necessary so that a call from a wireline unit, such as a landline telephone 18, may be connected to a wireless communications device, such as a wireless telephone 20 or a personal digital assistant (PDA).

Peon, column 5, lines 3-16

The cited excerpt of **Peon** discusses the connections that allow a wireless phone system to interact with a wired phone system. This excerpt does not disclose accessing a telephone tree through a personalized version of the telephone tree. Neither does **Wolf** disclose this claimed feature. Therefore the feature "*wherein a user of said calling device interacts with said*

telephone call tree through said individualized call tree" is not shown by either of the references relied upon. Therefore, the rejection of claim 1 and the other claims in this group should be overturned.

A.2. Claim 21

Claim 21 recites "*wherein at the time said telephone call tree is accessed, if a determination is made that said telephone call tree has been previously accessed by said calling device, retrieving said individualized call tree and displaying said individualized call tree on said calling device*". This step provides the added convenience of automatically displaying a personalized phone tree that was previously created. Against this claim, the rejection cites the following excerpt:

FIG. 2 illustrates a main screen 200 comprising a menu section 202a and a records section 202b. A plurality of menu icons 204, in this case, a "Main" icon and a "Remote" icon, are displayed in the menu section 202a. Upon selection of one of the menu icons 204 displayed in the menu portion 202a, a corresponding menu, or script, for the selected menu is displayed in the records section 202b. As shown in FIG. 2, the Main icon has been selected, resulting in the display in the records section 202b of the script 206. Each line of the displayed script 206 comprises an individual menu, or script, record and, for purposes to be described in detail below, each record of the script 206 includes a "Key" component, a "Parameter" component, a "Menu type" component, and a "Prompt" component.

Wolf, column 3, lines 53-67

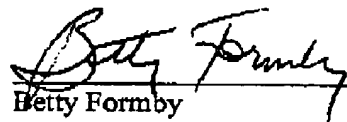
In this excerpt **Wolf** is discussing the use of icons that bring up associated menus or scripts. There is no determination whether the specific device has accessed the menu before. Instead, the response to an icon selection is the same, whether the user has been to this location before or not. Neither does **Wolf** suggest that such a determination might be made. Further, **Peon** neither discloses nor suggests that such a determination be made. Therefore, this feature is not shown or suggested by either of the references relied upon. The rejection of this claim should be overturned.

B. GROUND OF REJECTION 2 (Claims 5, 14 and 20)

Claim 5 is representative of this group of claims and recites that the steps are performed with a wireless phone. Claim 5 is dependent on claim 1 and contains the same distinctions over **Wolf** and **Peon** as were discussed above. Additionally, **Espejo**, which is included in this rejection, does not make up for the deficiencies of **Wolf** and **Peon**. Specifically, **Espejo** does not disclose

"associating an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree", nor does this reference disclose "wherein a user of said calling device interacts with said telephone call tree through said individualized call tree". This rejection should be overturned.

The Board of Appeals is respectfully requested to overturn the rejections of all claims and to indicate these claims to be allowable.


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CLAIMS APPENDIX

The text of the claims involved in the appeal are:

1. A method for interacting with a telephone call tree, comprising the steps of:
accessing a telephone call tree associated with an automated telephone answering service;
downloading a copy of said telephone call tree to form a downloaded call tree;
identifying a plurality of nodes of said downloaded call tree, said plurality of nodes being of interest to a user of said telephone call tree;
deleting, from said downloaded call tree, nodes that are not in said plurality of nodes to produce an individualized call tree;
associating an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree;
storing said individualized call tree at a location accessible to a calling device; and
wherein a user of said calling device interacts with said telephone call tree through said individualized call tree.
2. The method of Claim 1, wherein the accessing step accesses a hyper-link, said hyper-link including a network address associated with said telephone call tree.
3. The method of Claim 1, further comprising the step of:
assigning a respective identifier to each node of said plurality of nodes.

4. The method of Claim 1, wherein the accessing step accesses a data storage location associated with the automated telephone answering system and the downloading step downloads said copy of said telephone call tree from said data storage location.
5. The method of Claim 1, wherein the steps are performed with a wireless telephone.
6. The method of Claim 1, wherein the steps are performed with a computer.
8. The method of Claim 3, wherein said respective identifier comprises a respective number associated with each node of said plurality of nodes.
9. The method of Claim 1, wherein said instruction set comprises a set of software instructions.
10. The method of Claim 1, wherein said instruction set comprises a software macro.
11. A system for interacting with a telephone call tree, comprising:
 - an automated telephone answering system; and
 - a communication unit, said communication unit coupled to said automated telephone answering system and operable to:
 - access a telephone call tree associated with said automated telephone answering system;
 - download a copy of said telephone call tree to form a downloaded call tree;

identify a plurality of nodes of said downloaded call tree, said plurality of nodes being of interest to a user of said telephone call tree;

delete, from said downloaded call tree, nodes that are not in said plurality of nodes to produce an individualized call tree;

associate an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree;

store said individualized call tree at a location accessible to said communication unit; and

wherein a user of said communication unit interacts with said telephone call tree through said individualized call tree.

12. The system of Claim 11, wherein the access operation accesses a hyper-link, said hyper-link including a network address associated with said telephone call tree.

13. The system of Claim 11, wherein said communication unit is further operable to:
retrieve a call tree chosen from the group consisting of said individualized call tree and said telephone call tree; and
display said call tree.

14. The system of Claim 11, wherein said communication unit comprises a wireless telephone.

15. The system of Claim 11, wherein said communication unit comprises a computer.

16. The system of Claim 11, wherein said communication unit is further operable to:
assign a respective identifier to each node of said plurality of nodes.

17. A computer program product in a computer readable medium for interacting with a telephone call tree, the computer program product comprising:

first instructions for accessing a telephone call tree associated with an automated telephone answering service and downloading a copy of said telephone call tree to form a downloaded call tree;

second instructions for identifying a plurality of nodes of said downloaded call tree, said plurality of nodes being of interest to a user of said telephone call tree and deleting, from said downloaded call tree, nodes that are not in said plurality of nodes to produce an individualized call tree;

third instructions for associating an instruction set with a node of said plurality of nodes, said instruction set mapping said node to a respective node of said telephone call tree and storing said individualized call tree at a location accessible to a calling device; and

wherein a user of said calling device interacts with said telephone call tree through said individualized call tree.

18. The computer program product of Claim 17, wherein said first instructions comprise instructions for:

accessing a hyper-link, said hyper-link including a network address associated with said telephone call tree; and

downloading said telephone call tree.

19. The computer program product of Claim 17, further comprising:

fourth instructions for assigning a respective identifier to each node of said plurality of nodes of said modified telephone call tree.

20. The computer program product of Claim 17, wherein said instructions are performed by a processor in a wireless communication device.

21. The method of Claim 1, further comprising the step of:

wherein at the time said telephone call tree is accessed, if a determination is made that said telephone call tree has been previously accessed by said calling device, retrieving said individualized call tree and displaying said individualized call tree on said calling device.

EVIDENCE APPENDIX

There is no evidence to be presented.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings.